HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R. No.3721 of 1989
Date of decision : 14.02.2007

Inder Sain and others .....Petitioners

versus

Kesho Lal and another .....Respondents

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : None.

* * *

ORDER

HEMANT GUPTA, J.

The challenge in the present revision petition is to the order passed by the learned Executing Court dated 5.9.1989, whereby objections filed by the judgment debtors were accepted and the execution petition was dismissed.

The decree holders-petitioners have sought execution of the decree for possession in a Civil Suit after termination of tenancy in respect of land measuring 33 kanals-12 marlas. In appeal, the judgment of the learned trial Court was modified by the learned First Appellate Court on 7.9.1974 on the basis of a compromise arrived at between the parties as it was agreed that such decree passed by the trial Court would be executed after a period of five years from 7.9.1974. The decree holders filed an execution petition on 27.3.1982 after the expiry of period fixed in the compromise.

The Judgment debtors filed objection petition alleging that the provisions of Haryana Urban (Control of Rent & Eviction) Act, 1973

(hereinafter referred to as the Act) are applicable as the land in dispute falls within the municipal limit vide notification dated 19.1.1970. The learned Executing Court accepted the said objections and dismissed the execution petition.

Since the decree for possession after termination of tenancy was passed when the provisions of the Act were not applicable in respect of the land in dispute, but by virtue of the Notification dated 18.1.1970, the said land has been included in the municipal limits, therefore, the provisions of the Act are applicable. Once the provisions of the Act are applicable, the decree for possession cannot be executed. This view has been taken by this Court in ***"Ram Narain and others versus Ram Lal and others, 2004 (1) P.L.R.-634***", and ***"J.U.Katyal and another versus Krishan Kapur and others, 2005 (1) P.L.R.-558".***

In view of the above, I do not find any illegality or irregularity in the order passed by the learned Executing Court which may warrant interference of this Court in exercise of its revisional jurisdiction.

The present revision petition is dismissed.

(HEMANT GUPTA)
JUDGE

February 14, 2007
**mohinder*